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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,457	09/11/2000	Henrik Sune Andersen	5956.200-US	9106

7590 08/26/2002

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EXAMINER

GERSTL, ROBERT

ART UNIT

PAPER NUMBER

1626

DATE MAILED: 08/26/2002 11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/662,457	ANDERSEN ET AL.	
	Examiner Robert Gerstl	Art Unit 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 May 2002.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) See Continuation Sheet is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-29,32-37,39,41,42,44-47,50-52,54,56-61,63,-73,76,77,85,86,90,91,93,94,96,97,99-109 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

<input type="checkbox"/> Notice of References Cited (PTO-892)	<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	<input type="checkbox"/> Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1-29,32-37,39,41,42,44-47,50-52,54,56-61,63,73,76,77,85,86,90,91,93,94,96,97 and 99-109.

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-29, 32-37, 39, 41, 42, 44-47, 50-52, 54, 56-61, 63-73, 76, 77, 85, 86, 90, 91, 93, 94, 96, 97, 99-109 are rejected under 35 U.S.C. 102(e) as being anticipated by Moller. See exs.5, 18-21, 26, 29, 32-39, 41-45, 49-52. The claims are still anticipated by the esters that are taught in the examples as in column 46, lines33-34.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-29, 32-37, 39, 41, 42, 44-47, 50-52, 54, 56-61, 63-73, 76, 77, 85, 86, 90, 91, 93, 94, 96, 97, 99-109 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The new proviso excludes R3 as tetrazole which is not in the definition of R3. The provisos lack support and a written description in the application as filed. There are no examples or embodiments of the subgenus defined by the provisos. There is no guidance for the reduced genus now recited by the claims. As originally filed, the variables were independent of each other. The provisos now require that the definitions are no longer independent.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Gerstl whose telephone number is 703 308-4531. The examiner can normally be reached on Mon.-Fri. (7-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe McKane can be reached on 703 308-4537. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308-4426 for regular communications and 703 308-4426 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.



Robert Gerstl
Primary Examiner
Art Unit 1626

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August 23, 2002